

# ECONOMIC DEVELOPMENT

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## COMPANY

OFFICE OF COMMUNITY DEVELOPMENT





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FOREWORD

In order to protect individual privacy, record systems containing personal information on individuals are subject to the provisions of the Privacy Act of 1974 (Public Law 93-579). In keeping with the Act, certain safeguards concerning collection, maintenance, disclosure and individual access and amendment are now in effect as outlined in SOP 40 04, Privacy Act Procedures. These provisions require that: (a) only personal information which is relevant and necessary to the direct accomplishment of the SBA mission can be collected and maintained; (b) disclosure of this information without the prior written consent of the individual is strictly limited, and accountings of these disclosures must be maintained; (c) the individual must be allowed access to his or her record and must be given an opportunity to challenge the veracity of its contents.

All employees operating under this SOP should refer to SOP 40 04 for guidance in handling matters dealing with personal information. Procedures for allowing an individual access and amendment as well as guidance on whether or not a record is accessible to an individual can be found in SOP 40 04.

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CHAPTER 1

OPERATING PRINCIPLES

1. AUTHORITY

Pursuant to the authority contained in Part 108 of SBA Rules and Regulations issued under the Small Business Investment Act of 1958, as amended, the Office of Community Development makes use of all the authority vested in SBA to provide assistance to eligible state development companies (SDC) to stimulate the flow of private equity capital and long-term loans for the sound financing of operations, growth, expansion, and modernization of small business concerns.
2. ELIGIBILITY

To be eligible for assistance under Section 501, an SDC must be organized under or pursuant to a special act of the State legislature, and must have authority to operate on a statewide basis. It must be formed for the purpose of furthering the economic development of the state, and have the authority to promote and assist the growth and development of small business concerns in the state. An SDC may be either a profit or nonprofit corporation. (See Part 108 of Regulations.)
3. PARTICIPATION BY STATE DEVELOPMENT COMPANY

To insure the participation of private financing sources, the State Development Company (SDC), must maintain a portfolio of investments in, or loans to, small business concerns (SBC's) having a stated outstanding value of not less than 133-1/3 percent of the unpaid principal of the 501 loan. (See paragraph 32 below for a definition of "value.") This volume of SBC loans will be required within 30 days of disbursing the 501 loan (see paragraph 17b) and must be maintained during the term of the SBA loan. (See paragraph 31 below concerning deviations on this level.) Loans initially assigned to this portfolio will remain in the portfolio as long as the 501 loan is outstanding, including all extensions or renewals. Only when a loan is paid in full, when it becomes delinquent, when the examiner classifies it "doubtful" or "loss," or other similar cause, will another loan be substituted. New loans may be added to the portfolio from time to time if and when loans made by the SDC are repaid at a rate faster than the SDC's 501 loan.

Loans guaranteed by SBA with SDC funds other than 501 loan funds, may be included in the portion of the portfolio required to be furnished by the state development company.

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4. AMOUNT OF LOAN

The amount of a 501 loan may not exceed the total of all funds borrowed by the SDC from all other sources. The amount of the loan must be determined also to be consistent with sound business practice. (The sale of stock by the SDC does not constitute a "borrowing" by the SDC.)

Note: "Sound business practice" as used above includes a determination by the 501 loan processor that there is a sufficient loan demand from the small business sector to indicate a need for the funds applied for. It includes a determination that members' pledged funds are not available to meet this, and potential or unexpected demand from other than the small business sector, and other such reasonable considerations. (See also paragraph 11.)

5. REPAYMENT OF LOAN

A 501 loan must be repaid at no lesser rate than the other debts of the SDC which first become due. The 501 loan is required by statute to be on an equal priority basis with those funds borrowed by the SDC from other sources which have the highest priority. Therefore, if the SDC is borrowing some funds with 1-year maturities, the SBA loan must mature in 1 year, regardless of the terms of other borrowings. The maturity of a 501 loan may not exceed 20 years, including all extensions and renewals.

Note: See appendix 4 for form of note for repayment.

6. AMORTIZATION OF LOANS

While there is no statutory requirement that a 501 loan be amortized when the loans from the members of an SDC are not amortized, SBA does require at least annual amortization of the principal of the loan. For example, if a loan is approved on the basis of 1-year maturity with right of renewal for nine 1-year periods, the authorization and note should require a reduction of the principal amount by one-tenth of the original amount of the loan at each renewal period. In hardship cases, the assistant district director for finance and investment (ADD/F&I) or the chief, community economic development division (CED), may request, through normal channels, the Office of Community Development (OCD), that this requirement be relaxed for a specific 501 application. Full justification for such action must accompany the request.

7. EXTENSIONS AND RENEWALS

Extensions and renewals of 501 loans should be accomplished by use of an allonge to the original note, if permitted by state law, or a new note, rather than by making a new refunding loan. At the time of renewal, a reducing principal clause and an interest rate adjusted to conform to the rate being charged as of that date, must be included.

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8. PREPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST

Prepayment of a 501 loan is permitted on any interest payment date without penalty. Periodic payments of interest are required on 501 loans, not less frequently than semiannually.

  

9. INTEREST RATE

The interest rate on a 501 loan shall be determined by the SBA Administrator annually at the beginning of each fiscal year taking into consideration the average market yield on outstanding U.S. Treasury obligations and comparable maturity, plus additional charge, if any, to cover other costs of the program, but not in excess of 8 percent per annum. An annual review on the anniversary of the loan will be made to conform the interest rate to the rate currently in effect.

  

10. SECURITY

The 501 loan will be secured to the same extent that the SDC's borrowings from other sources, which have the highest priority, are secured. If a portion of the other borrowings is secured and the balance is unsecured, the 501 loan will be fully secured unless OCD has given prior written approval for the 501 loan to be secured on a ratable basis.

  

11. AVAILABILITY OF FUNDS FROM OTHER SOURCES

The 501 application requires a certification from the SDC that funds requested from SBA are not available from other sources for the purposes specified in the loan application. SBA requires that, in addition to this certification, the processing economic development specialist (EDS) will:

- a. Determine the total amount pledged to the SDC by its members.
- b. Determine the total amount loaned to the SDC by its members.
- c. Determine if the members are unable to increase their loans to the SDC for economic or other reasons, when total member loans to the SDC are less than 75 percent of the amount pledged.
- d. Comment in his report on the results of this analysis. Whenever the EDS determines that funds are available, or if total of all members' loans to the SDC is less than 60 percent of the amount pledged, or if the SDC has uncommitted cash in excess of normal operating needs, he will contact OCD through the ADDE&I or CED chief for a ruling before final action is taken on the application.

  

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Note: "Normal operating needs," as used above, has no strict definition because of the various methods of operating an SDC, the many different ways an SDC is used by the states, and the difference in the economy from state to state. When in doubt as to the need for the amount of cash reserves, the EDS will contact OCD through the CED chief.

12. LOANS BY THE SDC

The SDC may lend 501 loan proceeds to, or invest in, eligible small business concerns necessary to the growth and well-being of the state's economy. The business concerns can be proprietorships, partnerships, or corporations, and may be new businesses, expansions, or branches of existing businesses, or relocation or existing businesses. (See Part 108.3 of Regulations regarding limitations on relocations.)

13. SDC LOANS TO AN LDC

The SDC is capable of supporting the Local Development Company (LDC) program with funds it acquires from private sources (not 501 loan proceeds) in the following ways:

- a. The SDC may lend funds to the LDC to be used as part of the local injection in a project.
- b. The SDC may be the first mortgage lender.
- c. The SDC may make the loan with SBA guaranty.

Note: If otherwise eligible, the SDC itself may operate as a statewide LDC and be a borrower of 502 funds.

A state development corporation may elect to apply for 502 loan funds, but is precluded then from acting both as a 502 local development corporation borrower and a state development corporation lender for the same project; i.e., lending from privately acquired sources either the balance needed to complete the 502 project or funds to fill the financial needs of the small business being assisted in the project.

14. USE OF 501 LOAN PROCEEDS

- a. Eligibility. The SDC may use 501 funds only to assist, either with loans or equity investments, businesses which are small by SBA definition (Part 121.3-11 of Regulations) (see also Part 108.501-1(e) regarding limitations on equity investments).

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b. Loan Purposes. The SDC may use 501 funds to supply SBC's with working capital, growth money, expansion, or modernization funds. The SBC may not use such funds (1) to relend, (2) for any purpose contrary to the public interest, (3) to establish a monopoly, or (4) generally, outside the United States.

15. FLOOD HAZARD

The Flood Disaster Protection Act of 1973 (PL 93-234) requires that all Government lending agencies, as well as all federally-insured or regulated lending institutions such as banks, savings and loan associations, and credit unions, make mandatory the purchase of Federal Flood Insurance by all borrowers on or after 3/2/74, when such borrowers are located in communities designated as having areas of special flood hazard by the Federal Insurance Administration (a division of the Department of Housing and Urban Development), AND are located within the boundaries of special flood hazard area delineated on an FIA map, AND flood insurance is available under the FIA program, AND when the proceeds of an SBA direct, participation, or guaranty loan are to be used, in whole or in part, for construction or acquisition of property as defined in Part 116 of SBA Rules and Regulations (see below).

In all loans made by the SDC with 501 funds, approved on or after July 1, 1975 (or 1 year after date of FIA notification, whichever is later), involving tangible assets or improved real estate which are or will be located within a special flood hazard area, the purchase of the required flood insurance is mandatory. If the community is not participating in the program and therefore flood insurance cannot be purchased, the loan cannot be approved. Such a decline would be for coded reason #5 - not eligible because of policy reasons: required flood insurance is not available (see appendix 20 of SOP 50 10 for more details).

"Construction" as defined in Part 116, includes the acquisition, construction, reconstruction, repair, or improvement of any building or mobile home on a foundation, and any machinery, equipment, fixtures or furnishings contained therein. Under FIA regulations, "inventory" falls within this definition of "construction," thereby affecting nearly all SDC loans.

In addition, there are three requirements on the SDC, that do not apply to bank loans which do not have Federal participation: (1) the insurance purchase requirement applies to all assisted personal property, including inventory, regardless of whether the SDC has provided or is providing financial assistance regarding real estate; and (2) if SDC provides financial assistance for personal property to a borrower that the SDC has previously assisted in a loan involving real estate at the same facility, then we must require flood insurance on the previously-assisted building as well as on the personal property. Finally, (3) SDC must require flood

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insurance on all cases involving personal property, such as working capital loans, even when no security interest is obtained by SDC.

Prior to first disbursement the SDC must have evidence that require flood insurance has been purchased. Such evidence may be in the form of proof of payment by any licensed insurance agency or a copy of the policy which has been issued.

Other policies which provide flood insurance may be used in lieu of the Standard Flood Insurance Policy if (1) the insurer is licensed to do business in the jurisdiction where the property is located, (2) the insurer will give 30 days' written notice of cancellation or nonrenewal of the flood insurance coverage to the insured and the lender or Federal agency, and (3) the flood insurance coverage offered by the insurer is guaranteed to be at least as broad as the coverage offered by the Standard Flood Insurance Policy.

Assistance provided in contravention of the above shall be construed to be contrary to the public interest and in violation of Section 108.501-1 (e)(2)(ii) of the Regulations.

#### 16. ENVIRONMENTAL CONTROL

Executive Order 11738, 38 F. R. 25161, has set forth the policy of the Federal Government to improve and enhance environmental quality of the Nation. In furtherance of such policy, in part, Federal agencies empowered to extend Federal assistance must undertake such assistance activities in a manner that will result in effective enforcement of the Clean Air Act (42 U.S.C. 1857 et seq.), as amended from time to time ("Air Acts"), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended from time to time ("Water Acts"). In compliance with Executive Order 11738, effective September 10, 1973, the SDC, along with its SBC beneficiaries of Federal assistance of \$100,000 or over, shall be required to execute appendix 5, "Environmental Protection Agreement."

It shall be considered contrary to the public interest and a violation of Section 108.501-1 (e)(2)(ii) of the SBA Regulations (except for aiding the SBC beneficiaries of Federal assistance for compliance) for any SDC to:

- a. Extend assistance to any concern which has a facility which is designated by the Administrator of the Environmental Protection Agency (EPA) as a facility which has given rise to a conviction for an offense under the above Acts. The lists of such facilities shall be published from time to time by EPA.
- b. Extend assistance to any applicant concern the operation of which is contributing, or after the rendering of such assistance will be

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contributing, to water, air, or solid waste pollution in noncompliance with the Air or the Water Acts or any rules, regulations, standards, or guidelines issued pursuant to Executive Order 11738.

Note: See appendix 5 for form of affidavit.

17. COMPLIANCE

a. Civil Rights.

(1) Each applicant SDC will be required to execute SBA Form 652, "Applicant's Assurance of Compliance." At the time of the loan closing, copies of SBA Form 793, "Notice to New SBA Borrowers," and SBA Form 722, "Equal Opportunity Poster," will be given to the SDC.

Each SBC (beneficiary of Federal assistance), whose paper is included in the 133-1/3 percent portfolio, will be required to execute SBA Form 652-D, "Assurance of Compliance." At the time of the loan closing, these SBCs will be given copies of SBA Form 793, and SBA Form 722.

SBCs receiving Federal financial assistance for construction purposes, through an SDC loan, will also be required to execute SBA Form 601, "Applicant's Agreement of Compliance." SBA Form 601-B, "Notice Regarding Non-segregated Facilities," and SBA Form 601-D, "Agreement with Executive Order City Plan," where required.

(2) The borrowing SDC must be advised by the EDS of its responsibility to inform the SBCs receiving Federal assistance through them, that the SBCs must be in compliance with Parts 112 and 113 of SBA's Rules and Regulations.

b. Portfolio.

Within 30 days of disbursing the 501 loan, or any portion thereof, the SDC must list the names of the borrowers and the amount of all loans the SDC is including in 133-1/3 percent portfolio supporting the SBA disbursement of 501 loan funds and forward such list to the SBA office closing the loan.

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## CHAPTER 2

### PROCESSING

#### 18. INQUIRIES

Instructions and guidelines in chapter 5, SOP 50 21-1, will apply to 501 loan inquiries. SBA Forms 149, "Loan Inquiry Record," and SBA Form 280, "Daily Register of Loan Inquiries."

#### 19. FILING AND SCREENING OF APPLICATIONS

- a. Application Form. SBA Form 501, "Loan Application by a State Development Company," will be used for making applications.
- b. Place of Filing. The application will be filed in the field office serving the city in which the SDC has its main office.
- c. Acceptance. If the application is filed in a branch office, that office will forward the complete application to its district ADDFI or CED chief. The district CED staff, if they have one, will screen the application for completeness and, at the discretion of the district director, the ADDFI or CED chief will either process the loan or forward it to the EDS, or L/O, best qualified to process the loan application.

Before processing or forwarding the application to an EDS for processing, the ADDFI/CED chief will through the assistant regional director for F&I (ARDFI) confer with the appropriate person in OCD to allow time to provide funds for the 501 loan. (Without this advance notice, delays will be incurred when the processing has been completed and the request for funds is made.) At the time of this telephone notice, the ARDFI will supply OCD with the necessary information (in lieu of an SBA Form 603) to be confirmed in writing.

#### 20. CONTROLS

SBA Form 135, "Loan Approval Document," will be completed as prescribed in SOP 20 20-1, "Preparation and Distribution of Loan Accounting Documents." The prefix for a 501 loan is SD, and the suffix is the state in which the SDC is located. The SIC code will be 6159.

#### 21. PROCESSING REPORT

THE ADDFI, CED chief or the EDS assigned to process the application will prepare a report substantially in accordance with the format in appendix 1. (This format is not to be reproduced locally.)

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22. APPROVAL AUTHORITY

- a. Loan Application for \$750,000 or Less. The district director, ADDFI, CED chief, or others as delegated, may approve a Section 501 loan for \$750,000 or less when he concurs in the recommendations of the processor and/or other reviewing official. If he does not concur with either, it is considered a split decision. To resolve a split decision, the district director makes his recommendation and submits the loan file to the regional office for final action.
- b. Loan Application for More Than \$750,000 or in Excess of District Office Authority. The processing EDS, CED chief, ADDFI, or others, as delegated, and the district director will make recommendations to approve or decline the loan. The entire case file and all recommendations will be forwarded to the regional office for final action.

23. ALLOCATION OF FUNDS

The instructions in SOP 50 21-1, "Development Company Assistance Under Section 502," regarding the allocation of funds will be followed. Upon approval of a 501 loan the regional office will request OCD by telephone to allocate the necessary funds. Upon receipt of SBA Form 826, "Advice of Allotment-Loan Funds," the ARDFI will request the office which processed the loan to complete the SBA Form 135 and distribute as per instructions. A photo copy of the SBA Form 135, and copy of loan specialist's report, and authorization will be sent to OCD. No notification of approval to the Office of Congressional Relations will be necessary. Also, a copy of note and loan agreement will be sent to OCD when available.

24. AUTHORIZATIONS

When a Section 501 loan application is recommended for approval, a loan authorization and loan agreement will be prepared substantially in conformance with the formats in appendixes 2 and 3, respectively. These must be cleared by field counsel for legal sufficiency.

Note: See appendix 2 and 3 for format.

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### CHAPTER 3

#### 501 LOAN CLOSING AND COMPLIANCE REVIEW

##### 25. LOAN CLOSING

The instructions for closing a Section 502 loan as prescribed in SOP 50 21-1 "Development Company Assistance Under Section 502," also apply to the closing of a Section 501 loan. The EDS assisting in the closing of the loan must follow each disbursement to determine that the entire amount of each disbursement is loaned or invested in small business within 30 days of the disbursement. (At the discretion of the regional office, a 501 loan approved in a district office may be closed in the regional office.)

##### 26. FIRM COMMITMENT AND FEE

It is not necessary that the SDC draw the entire loan immediately. SBA may give a firm commitment for a period of 1 year. If this commitment has not been fully used by the end of the year, it is canceled unless renewed by SBA Form 327, "Modification or Administrative Action."

##### 27. MODIFICATIONS

Any modification required to permit closing of a Section 501 loan will be prepared in accordance with the instructions for making modifications to Section 502 loans, as prescribed in SOP 50 21-1.

##### 28. LOAN CASE FILE

See SOP 00 41, "Records Management," appendix 3 for instructions on the preparation of a Section 501 loan case file.

##### 29. COMPLIANCE REVIEW

- a. A compliance review field visit will be made annually by the SBA Examination Division for the purpose of keeping SBA informed on the status of the SBA loan to the borrower. A member of the district/regional office should make at least an annual visit to keep our borrower informed of the various services SBA can offer and how the SDC can participate in the guarantee program and as a secondary market packager. As a general rule, no representative of SBA will contact the small business concerns borrowing from the SDC.
- b. Periodic civil rights compliance reviews of SBCs receiving federal assistance may be conducted, with knowledge of the SDC lender, in conjunction with the compliance review, as set forth in 29a above.

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30. FINANCIAL STATEMENTS

The SDC's are required, as set forth in the loan agreement, to submit financial statements at least annually, and generally more frequently. In addition to the normal analysis of the financial statements, the reviewing offices will determine from the balance sheet that the total borrowings of the SDC from all other sources is at least equal to the unpaid balance of the 501 loan(s). OCD should be kept informed of any violations noted and actions taken.

31. VARIANCES

- a. Portfolio (133-1/3%). Slight deviations in the required portfolio are permitted during the interval between repayment or other disposal of such investments or loans and the reinvestment of said funds. When the level of loans/investments to SBC's is below the required 133-1/3 percent minimum during a compliance check, it shall be determined if sufficient loans to small business concerns are pending to bring the portfolio up to required level. If not, the SDC may have a 90-day period to bring it up to required level or make the necessary reduction in the 501(s) to meet the required level.
- b. Ratio of 501 Borrowings to Other Borrowings (Members, etc.). A slight variance in this ratio is permitted during the period when the SDC has redeemed prior borrowing instruments, has pledges for new borrowings, and is awaiting the documents to complete the new borrowings.

32. DEFINITIONS OF VALUE

As used in this SOP, value means the unpaid balance of a loan to a small business concern as reflected on the books of the SDC. This will be the balance of the note, less prepaid interest (as with an add-on interest loan) and the amounts that may have been classified by examiners and charged off as a loss on the books of the SDC. Generally, examiners will, as prescribed by the Uniform Classification Procedures adopted in 1949 by all three Federal banking agencies and state bank authorities, classify loans as substandard, doubtful, or loss. They then require 50 percent of the balance of a "doubtful" loan be charged off as a loss, and that the entire balance of a "loss" classified loan be charged off. The examiners' viewpoint is that these loans do not represent sound credits and should not be reflected on the books of the corporation. They expect, and are usually correct, that over the long term the majority of charged off loans will be collected in full, but not "paid as agreed."

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<p>APPENDIX 1 (Paragraph 21)</p> <p>(Note: This format is not to be preprinted and stocked)</p> <p>FORMAT</p> <p><u>ECONOMIC DEVELOPMENT SPECIALIST'S REPORT AND RECOMMENDATION ON SECTION 501 LOAN APPLICATION</u></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> <p><u>APPLICANT</u></p> <p>Name and Address of State Development Company</p> <p><u>SECURITY OFFERED</u></p> <p>If none, so state.</p> <p><u>REPAYMENT TERMS REQUESTED</u></p> <p><u>TYPE OF LOAN</u></p> <p><u>PREVIOUS LOANS</u></p> <p><u>ELIGIBILITY OF APPLICANT</u></p> <p>Comment on authority and eligibility of applicant, and whether Resolutions from Board of Directors to borrow the requested funds is in the file, and supported by an opinion of SBA attorney.</p> <p><u>AVAILABILITY OF FUNDS</u></p> <p>Item 7(a) of SBA Form 501 requires certification by applicant regarding non-availability of funds from other sources</p> <p><u>EQUAL SECURITY</u></p> <p>Comment on basis of applicant's other borrowings. If by unsecured note, the loan is assumed to be supported by the full faith and credit of the applicant, which in turn, is sustained by all assets, reserves, and capital, pro rata with financial institutional membership.</p> <p><u>EQUAL REPAYMENT</u></p> <p>Terms of applicant's other borrowings shall be reviewed to determine whether the maturity and repayment terms requested on the SBA Section 501 loan are in line with the terms of those loans.</p> </td> <td style="width: 50%; vertical-align: top; border: none;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="padding: 2px;"><u>LOAN NO.</u></td></tr> <tr><td style="padding: 2px;"><u>AMOUNT REQUESTED \$</u></td></tr> <tr><td style="padding: 2px;"><u>MATURITY REQUESTED</u>      <u>YRS.</u></td></tr> <tr><td style="padding: 2px;"><u>RATE OF INTEREST</u></td></tr> <tr><td style="padding: 2px;"><u>DATE OF APPLICATION</u></td></tr> <tr><td style="padding: 2px;"><u>DATE ACCEPTED</u></td></tr> <tr><td style="padding: 2px;"><u>DATE OF THIS REPORT</u></td></tr> </table> </td> </tr> </table>				<p><u>APPLICANT</u></p> <p>Name and Address of State Development Company</p> <p><u>SECURITY OFFERED</u></p> <p>If none, so state.</p> <p><u>REPAYMENT TERMS REQUESTED</u></p> <p><u>TYPE OF LOAN</u></p> <p><u>PREVIOUS LOANS</u></p> <p><u>ELIGIBILITY OF APPLICANT</u></p> <p>Comment on authority and eligibility of applicant, and whether Resolutions from Board of Directors to borrow the requested funds is in the file, and supported by an opinion of SBA attorney.</p> <p><u>AVAILABILITY OF FUNDS</u></p> <p>Item 7(a) of SBA Form 501 requires certification by applicant regarding non-availability of funds from other sources</p> <p><u>EQUAL SECURITY</u></p> <p>Comment on basis of applicant's other borrowings. If by unsecured note, the loan is assumed to be supported by the full faith and credit of the applicant, which in turn, is sustained by all assets, reserves, and capital, pro rata with financial institutional membership.</p> <p><u>EQUAL REPAYMENT</u></p> <p>Terms of applicant's other borrowings shall be reviewed to determine whether the maturity and repayment terms requested on the SBA Section 501 loan are in line with the terms of those loans.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="padding: 2px;"><u>LOAN NO.</u></td></tr> <tr><td style="padding: 2px;"><u>AMOUNT REQUESTED \$</u></td></tr> <tr><td style="padding: 2px;"><u>MATURITY REQUESTED</u>      <u>YRS.</u></td></tr> <tr><td style="padding: 2px;"><u>RATE OF INTEREST</u></td></tr> <tr><td style="padding: 2px;"><u>DATE OF APPLICATION</u></td></tr> <tr><td style="padding: 2px;"><u>DATE ACCEPTED</u></td></tr> <tr><td style="padding: 2px;"><u>DATE OF THIS REPORT</u></td></tr> </table>	<u>LOAN NO.</u>	<u>AMOUNT REQUESTED \$</u>	<u>MATURITY REQUESTED</u> <u>YRS.</u>	<u>RATE OF INTEREST</u>	<u>DATE OF APPLICATION</u>	<u>DATE ACCEPTED</u>	<u>DATE OF THIS REPORT</u>
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# APPENDIX 1

## BORROWING FROM PRIVATE SOURCES EQUAL TO OR IN EXCESS OF PROPOSED LOAN

Applicant must show amount of borrowings from other sources.

## USE OF PROCEEDS OF PROPOSED LOAN

Applicant must show amount of loan commitments or applications for benefit of eligible small business concerns.

## ANALYSIS OF APPLICANT'S OPERATIONS AND ABILITY TO REPAY LOAN

Comment with respect to repayment of applicant's outstanding loans receivable, security therefore, losses, if any, and net earnings' trend of applicant. Any adverse conditions shall be noted.

## MANAGEMENT OF APPLICANT

Names and salaries of applicant's operating management must be shown. Comment on capability and satisfactory experience. Changes in applicant's Board of Directors and elected officers shall be noted.

## RECOMMENDATION

Show recommended action on loan amount, rate of interest, and maturity, subject to the terms and conditions of an attached authorization.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Economic Development Specialist

## CONCURRENCE AS TO LEGAL SUFFICIENCY OF THE LOAN:

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
SBA Attorney

## COMMENTS OF CED CHIEF

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

## RECOMMENDATION OR ACTION OF DIRECTOR

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

## OTHERS AS NECESSARY

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APPENDIX 2  
(Paragraph 24)

(Note: This format is not to be preprinted and stocked)

FORMAT

SMALL BUSINESS ADMINISTRATION  
Region/District Office  
City, State

AUTHORIZATION

A loan is authorized by this Administration (pursuant to Section 501 of the Small Business Investment Act of 1958, as amended), to the \_\_\_\_\_  
(Hereinafter called "Borrower"), on Borrower's Application dated \_\_\_\_\_  
Loan No. \_\_\_\_\_, in the amount and upon the conditions as follows:

1. Amount:
2. Note Payable:
  - a. \_\_\_\_\_ ( ) years from date of the Note, with annual reduction of principal in the amount of \_\_\_\_\_  
(\$ \_\_\_\_\_) on each anniversary date of the Note, with interest from the date of this Note at the rate to be determined by the SBA Administrator annually at the beginning of each fiscal year taking into consideration the average market yield on outstanding U.S. Treasury obligations and comparable maturity, plus additional charge, if any, to cover other costs of the program, but not in excess of 8 percent per annum, payable semiannually beginning six months from the date hereof. Provided, however, that at any time the total unpaid obligation evidenced by this or any other note or notes of the Undersigned held by Payee under Section 501 of the Small Business Investment Act of 1958, as amended, is in excess of the total amount borrowed and outstanding by the Undersigned from all other sources except for interim financing an amount equivalent to such excess shall be immediately due and payable by the Undersigned on account of the principal hereof.
  - b. The interest rate for the first two interest payments shall be \_\_\_\_\_ percent. The subsequent interest rate will be adjusted annually, on the anniversary date of this Note to the rate currently in effect, but not to exceed 8 percent.

  

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## APPENDIX 2

## 3. Use of Proceeds of Loan:

To provide equity capital and make long-term loans in accordance with the requirement of Section 108.501 of SBA Rules and Regulations, as amended, to eligible small business concerns for financial assistance as defined under Section 121 of SBA Rules and Regulations or to repay short-term bank loans borrowed in anticipation of the approval of this loan.

## 4. Compensation Agreement executed substantially in the form of SBA Form 159.

## 5. Prior to each disbursement on account of the loan, SBA \_\_\_\_\_ director shall be in receipt of evidence satisfactory to him in his discretion that there has been no adverse change since the date of the application or since any of the preceding disbursements, in the financial or any other condition of Borrower, which would warrant withholding or not making any such disbursement or any further disbursement.

## 6. Prior to the first disbursement on account of the loan, the SBA \_\_\_\_\_ director shall be in receipt of an agreement, in form satisfactory to him and SBA counsel, providing that:

- a. Borrower will warrant and agree that funds advanced to it under this loan shall always be treated on an equal basis with those funds borrowed by the Borrower after August 21, 1958, regardless of source, which have the highest priority in repayment, security, and liquidation (unless waived).
- b. Within 30 days after the disbursement of the proceeds of this loan and thereafter for the period in which this loan or any part thereof remains unpaid, Borrower will maintain Portfolio Investments in compliance with requirements of Section 108.501-1(a) of SBA Rules and Regulations, to small business concerns as of the date of the disbursement of this loan, having a stated outstanding principal value equal to no less than 133-1/3 percent of the unpaid principal of this loan. Deviations from this ratio will be permitted only during periods of repayment of such Investments and the prompt reinvestment of such funds.

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APPENDIX 2

c. The SDC will agree not to make any loans with funds obtained from SBA to any small business concern (SBC) located within a special flood designated area unless (1) the community in which said applicant is located is participating in the flood insurance program or (2) less than a year has elapsed since the community was formally notified of the identification of a special flood hazard area within its boundaries. Further, that it agrees to obtain and maintain in their files evidence that adequate flood insurance has been obtained from those SBCs effected. Further, SDC agrees to require all SBCs assisted by SBA funds to agree to obtain said insurance should their location become designated in the future.

d. Except for aiding the SBC beneficiaries of Federal Assistance for compliance purposes, the SDC will be considered as acting in a fashion contrary to the public interest and in violation of Section 108.501-1 (e)(2)(ii) of the SBA Regulations if it were to:

- (1) Extend assistance to any concern which has a facility which is designated by the Administrator of the Environmental Protection Agency (EPA) as a facility which has given rise to a conviction for an offense under the above Acts. The lists of such facilities shall be published from time to time by EPA.
- (2) Extend assistance to any applicant concern the operation of which is contributing, or after the rendering of such assistance will be contribution, to water, air, or solid waste pollution in non-compliance with the Air or the Water Acts or any rules, regulations, standards, or guidelines issued pursuant to Executive Order 11738.

e. Borrower will supply this Administration with quarterly financial condition reports, operating statements, and supporting schedules.

f. Borrower will notify this Administration:

- (1) If any member of Borrower withdraws from Borrower.
- (2) Of any change of officers or directors of Borrower.
- (3) Of any change in the (name of state) statutory enabling legislation, or in the Charter or Bylaws of the Borrower.

g. Borrower shall not require any small business concern receiving any portion of the proceeds of this loan to invest in debentures of Borrower from such proceeds.

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7. Prior to the first disbursement on account of the loan, \_\_\_\_\_ director shall be in receipt of:
- Evidence satisfactory to the \_\_\_\_\_ director that no officer or director is a member of SBA's Advisory Councils.
  - Executed SBA Forms 652 and 652B.
8. Prior to the first disbursement on account of the loan, the \_\_\_\_\_ director shall be in receipt of an Opinion of Borrower's Counsel, stating that:
- Borrower is a State Development Company within the meaning of the definition contained in Section 103 of the Small Business Investment Act of 1958, as amended, and of SBA Regulations issued thereunder.
  - Borrower is authorized under its Charter and Bylaws and under the \_\_\_\_\_ Statute pursuant to which it was created to borrow said \$ \_\_\_\_\_ from this Administration for the purposes of this loan.
  - The subject loan by this Administration is being and will be treated under the terms of the Note or otherwise on an equal basis with funds borrowed by Borrower after August 21, 1958, regardless of sources, which have the highest priority in repayment, security, and liquidation.
  - The Note of Borrower and any other agreements, instruments, or documents obtained in connection with the loan are valid and legally enforceable by the holder thereof against the Borrower or other party involved, in accordance with the terms thereof.
9. Funds disbursed under this loan must be invested in or loaned to a small business concern within 30 days of the date of disbursement hereunder, or be refunded to SBA.
10. Only so much of the loan proceeds shall be disbursed from time to time on account of this loan as will have been certified by the Borrower, at the time(s) Borrower shall request disbursement(s), as to actual or intended use within 30 days of the date of such disbursement.

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APPENDIX 3  
(Paragraph 24)

(Note: This format is not to be preprinted and stocked)

## FORMAT

LOAN AGREEMENT

To induce the SMALL BUSINESS ADMINISTRATION (hereinafter called "SBA") to make, and in consideration of the making by SBA of, a loan or a commitment for a loan in the amount of \_\_\_\_\_ or any part thereof (hereinafter called "Loan"), to the \_\_\_\_\_ (Hereinafter called "Borrower"), approved by Authorization of SBA dated \_\_\_\_\_, (which Authorization and all amendments thereof, heretofore, and hereafter issued by SBA, are hereinafter collectively called "Authorization"), Borrower hereby represents and warrants to, and agrees with, SBA that:

1. Use of Proceeds.-- Borrower will use the proceeds of the Loan solely for the purposes of providing equity capital to eligible small business concerns and/or to make long-term loans to eligible small business concerns, in accordance with the requirements of Section 108.501-1(e) of SBA's Rules and Regulations, as amended, as of the date of the disbursement of this Loan.

2. Reimbursable Expenses.-- Borrower will, on demand, reimburse SBA for any and all expenses incurred, or which may be hereafter incurred, by SBA from time to time in connection with or by reason of Borrower's application for, and the making and administration of the Loan.

3. Books, Records, and Reports.-- Borrower will at all times keep proper books of account in a manner satisfactory to SBA. Borrower hereby authorizes SBA to make or cause to be made, at Borrower's expense and in such manner and at such times as SBA may require, (a) inspections and audits of any books, records, and papers in the custody or control of Borrower or other, relating to Borrower's financial or business conditions, including the making of copies thereof and extracts therefrom, and (b) inspections and appraisals of any of Borrower's assets. Borrower will furnish to SBA copies of their annual statements (audited) and copies of their semi-annual statements (unaudited) (no later than 20th day following completion thereof and at such other times and in such form as SBA may prescribe Borrower's financial and operating statements. After each disbursement of these proceeds, Borrower shall submit within 30 days schedules showing how the proceeds of this loan were used (listing the names and addresses of small business concerns to which Borrower has made loans, showing the original amounts and outstanding balances of each, having an aggregate outstanding principal balance equal to at least 133-1/3 percent of the unpaid principal of this Loan), and all compensation then being paid by Borrower to all officers, directors, holders of 10 percent or more of

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## APPENDIX 3

Borrower's capital stock. Borrower hereby authorizes all Federal, state, and municipal authorities (a) to furnish reports of examinations, records, and other information relating to the conditions and affairs of Borrower and any desired information from reports, returns, files, and records of such authorities upon request therefore by SBA; and (b) to permit representatives of SBA to have full access, from time to time, to, and make copies of extracts from, any and all reports or returns by, or with respect to Borrower, and all reports of examiners or other information concerning Borrower contained in the files and records of such authorities.

4. Distributions and Compensation.-- Borrower will not, without the proper written consent of SBA, declare or pay any dividend or make any distribution upon its capital stock, or purchase or retire any of its capital stock, except out of retained earnings, or consolidate or merge with any other company, or give any preferential treatment, make any advance, directly or indirectly, by way of loan, gift, bonus or otherwise, to any company directly or indirectly controlling or affiliated with or controlled by Borrower, or any other company, or to any officer, director, or employee of Borrower, or of any such company. If any company directly or indirectly controlling, affiliated with, or controlled by Borrower shall increase the compensation paid by it to any person so that the aggregate amount payable to such person from all such sources exceeds the respective amount shown in said paragraph 5, the compensation payable to such person by Borrower will be forthwith correspondingly reduced and immediate notice thereof given to SBA by the Borrower.

5. Compensation.-- Borrower will limit the total annual compensation (including salaries, withdrawals, fees, bonuses, commissions, drawing accounts, and other payments whether direct or indirect, in money, or otherwise) of all officers, stockholders, directors, or others named herein to the following named persons in the amount set opposite each respective name:

NamePositionAmount

6. Fees and Commissions.-- Borrower has not, directly or indirectly, paid or agreed to pay, or procured any person, partnership, association or corporation, to pay or agree to pay, and will not directly or indirectly pay, or agree to pay, or procure any person, partnership, association or corporation to pay or agree to pay (a) any bonus, fee, commission, or other compensation, in any form in connection with the application for or the obtaining of the Loan; or (b) any charge or expense, in any form, in connection with said application or Loan, for the services of any kind of an appraiser, accountant, attorney, or any other party whatever, whether a person, partnership, association or corporation, whether for evidencing matters required to be presented with reference to said application or Loan, or for services in any manner connected with said application or Loan, except as permitted in writing by SBA. Borrower hereby certifies to SBA that: The names of all attorneys, accountants, appraisers,

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agents, and all other parties (whether, individuals, partnerships, associations, or corporations), engaged by or on behalf of Borrower (whether on a salary, retainer or fee, or other basis and regardless of the amount of compensation) for the purpose of rendering professional or other services to Borrower in connection with the application of Borrower for the Loan, or with the making of the Loan by SBA, or for the purpose of expediting said application or the Loan; and all fees or other charges or compensation paid or to be paid therefore, whether in money, property, services, or otherwise, by or for the account of Borrower, together with a description of such services rendered, or to be rendered, are set forth in the application for the Loan and no such attorney, accountant, appraiser, agent or other party has been engaged by or on behalf of Borrower for the purposes of any of them referred to in this paragraph since the date of said application except the following (if none, so state):

<u>Name and Address</u>	<u>Description of Services</u>	<u>Total Fees or Other Compensation To Be Paid</u>	<u>Total Fees or Other Compensation Already Paid</u>
-------------------------	--------------------------------	----------------------------------------------------	------------------------------------------------------

7. Borrower warrants and agrees that: (a) the Loan shall always be treated on at least an equal basis with those funds borrowed by Borrower after August 21, 1958, regardless of sources, which have the highest priority in repayment, security and liquidation, except that as to the rate of repayment to members of Borrower, such requirement has been waived by SBA; (b) within 30 days after disbursement of the proceeds of this Loan and thereafter, during the period in which this Loan, or any part thereof, remains unpaid, Borrower agrees to maintain portfolio investments and loans to small business concerns meeting the requirements of Part 108 of SBA's Rules and Regulations, as amended, as of the date of disbursement of this Loan, having a stated outstanding principal value equal to no less than 133-1/3 percent of the unpaid principal of this Loan. Deviation from this ratio will be permitted only during periods of repayment of such investments and loans, and the prompt reinvestment of such repaid funds; and (c) Borrower agrees to notify this Administration (1) if any member of Borrower withdraws from Borrower, (2) of any change of officers or directors of Borrower, and (3) of any change in the \_\_\_\_\_ statutory enabling legislation or in the Charter or Bylaws of Borrower.

8. Parties Affected.-- This Agreement shall be binding upon Borrower and Borrower's successors and assigns and shall inure to the benefit of SBA and its successors and assigns.

IN WITNESS WHEREOF, Borrower has executed or caused to be duly executed this Agreement and has affixed or caused to be duly affixed hereto Borrower's seal, on the \_\_\_\_\_ day of \_\_\_\_\_, 197 .

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APPENDIX 3

STATE DEVELOPMENT CREDIT CORPORATION

BY \_\_\_\_\_

\_\_\_\_\_  
(Title)

Note: Corporate applicants must execute Loan Agreement, in corporate name by duly authorized officer, and seal must be affixed and duly attested.

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**APPENDIX 4**  
**(Paragraph 5 and 33)**

**NOTE**  
**(501 Loan)**

Amount \$ \_\_\_\_\_ (City and State) \_\_\_\_\_

Loan Number \_\_\_\_\_ (Date) \_\_\_\_\_

For value received, the \_\_\_\_\_

(hereinafter called "Undersigned") promises to pay to the order of the SMALL BUSINESS ADMINISTRATION (hereinafter called "Payee") in the City of Washington, District of Columbia, or at Payee's option, at such other place as may be designated from time to time by the Payee, the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) years from the date hereof, with annual reduction of principal in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) on each anniversary date of this Note, beginning \_\_\_\_\_, with interest from the date of this Note at the rate to be determined by the SBA Administrator annually at the beginning of each fiscal year taking into consideration the average market yield on outstanding U. S. Treasury obligations and comparable maturity, plus additional charge, if any, to cover other costs of the program, but not in excess of 8 percent per annum, payable semiannually beginning six months from the date hereof. Provided, however, that at any time the total unpaid obligation evidenced by this or any other note or notes of the Undersigned held by Payee under Section 501 of the Small Business Investment Act of 1958, as amended, is in excess of the total amount borrowed and outstanding by the Undersigned from all other sources except for interim financing, an amount equivalent to such excess shall be immediately due and payable by the Undersigned on account of the principal hereof.

The interest rate for the first two interest payments shall be \_\_\_\_\_ percent. The subsequent interest rate will be adjusted annually, on the anniversary date of this Note to the rate currently in effect, but not to exceed 8 percent.

Payment of any portion of principal owing on this Note may be made on any interest payment date prior to the maturity date of this Note without penalty.

The indebtedness shall immediately become due and payable without notice or demand, upon the appointment of a receiver or liquidator, whether voluntary or involuntary, for Undersigned or for any of its property, or upon the filing of a petition by or against Undersigned under the provisions of any state insolvency law or under the provisions of the Bankruptcy Act of 1898, as amended, or upon the making by Undersigned of an assignment for the benefit of its creditors. Payee is authorized to declare all or any part of indebtedness immediately due and payable upon the happening of any of the following events: (1) Failure to pay any part of the indebtedness when due; (2) Nonperformance by Undersigned of any of the requirements imposed upon it by the Small Business Investment Act of 1958, as amended, and the regulations issued by Payee thereunder; (3) Nonperformance by Undersigned of any agreement with, or any condition imposed by, Payee with respect to the indebtedness; (4) Payee's discovery of the Undersigned's failure in any application of Undersigned to Payee to disclose any fact deemed by Payee to be material, or of the making of any false statements therein or in any of the said agreements, or in any certificate or other documents submitted in connection with said application or said indebtedness, or any misrepresentation by, on behalf of, or for the benefit of Undersigned; (5) the reorganization (other than a reorganization pursuant to any of the provisions of the Bankruptcy Act of 1898, as amended) or merger or consolidation or liquidation of Undersigned (or the making of any agreement therefor) without the prior written consent of Payee; or (6) the institution of any suit affecting Undersigned deemed by Payee to affect adversely its interest hereunder. Payee's failure to exercise its rights under this paragraph shall not constitute a waiver thereof.

IN WITNESS WHEREOF, the Undersigned has executed or caused to be executed this Note, and affixed or caused to be duly affixed hereto Undersigned's seal this \_\_\_\_\_ day of \_\_\_\_\_, 197 .

(SEAL)

By \_\_\_\_\_  
By \_\_\_\_\_

ATTEST:



